

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Unlicensed Activity of:

No. 10F-BD049-SBD

3 **GLEN OAKS ESCROW, INC. AND**
4 **SCOTT AKERLEY, PRESIDENT**
5 6100 San Fernando Road
6 Glendale, CA 91201

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

Respondents.

7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order
15 for which review is sought in accordance with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
20 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**
21 **reasonable accommodations such as interpreters, alternative formats, or assistance with**
22 **physical accessibility.** Requests for special accommodations must be made as early as possible to
23 allow time to arrange the accommodations. If accommodations are required, call the Office of
24 Administrative Hearings at (602) 542-9826.

25 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
26 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled

1 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an
2 Informal Settlement Conference is requested, a person with the authority to act on behalf of the
3 Department will be present (the "Department Representative"). Please note that in requesting an
4 Informal Settlement Conference, Respondents waive any right to object to the participation of the
5 Department Representative in the final administrative decision of this matter, if it is not settled. In
6 addition, any written or oral statement made by Respondents at such informal settlement conference,
7 including written documentation created or expressed solely for purposes of settlement negotiations,
8 are inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules
9 regarding informal settlement conferences.) Conversely, any written or oral statement made by
10 Respondents outside an Informal Settlement Conference is not barred from being admitted by the
11 Department in any subsequent hearing.

12 If Respondents do not request a hearing, this Order shall become final. If Respondents
13 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
14 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
15 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
16 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
17 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S.
18 § 6-132; (3) an order to pay restitution of any fees earned in violation of A.R.S. § 6-801, *et seq.*,
19 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (4) an order or any other remedy necessary or
20 proper for the enforcement of statutes and rules regulating escrow agents pursuant to A.R.S.
21 §§ 6-123 and 6-131.

22 **FINDINGS OF FACT**

23 1. Respondent Glen Oaks Escrow, Inc. ("Glen Oaks") is a California corporation that is
24 not and was not at any time material herein authorized to transact business in Arizona as an escrow
25 agent within the meaning of A.R.S. §§ 6-801, *et seq.* The nature of Glen Oaks' business is that of an
26 escrow agent within the meaning of A.R.S. § 6-801(5).

1 2. Respondent Scott Akerley ("Mr. Akerley") is the President of Glen Oaks and is not and
2 was not, at any time material herein, authorized to transact business in Arizona as an escrow agent
3 within the meaning of A.R.S. §§ 6-801, *et seq.*

4 3. Glen Oaks and Mr. Akerley are not exempt from licensure as an escrow agent within
5 the meaning of A.R.S. § 6-811(A).

6 4. On July 30, 2008, the Department received an Escrow Agent License Application (the
7 "Application") from Glen Oaks.

8 5. On October 2, 2008, the Department received amended pages 1 and 2 of the Application
9 from Glen Oaks.

10 6. On or around October 27, 2008, the Department received a consumer complaint against
11 Glen Oaks. The complaint revealed the possibility of unlicensed escrow activity.

12 7. On December 2, 2008, the Department sent a letter to Respondents, regarding the
13 complaint filed against Glen Oaks.

14 8. On December 2, 2008, the Department also sent a letter to Respondents regarding the
15 alleged unlicensed escrow agent activity by Glen Oaks, and requested that Glen Oaks provide
16 documents to the Department by December 16, 2008 (subsequently extended to January 8, 2009).

17 9. On January 8, 2009, Respondents provided the requested documents to the Department,
18 and additional documents were provided by Respondents during February and March, 2009.

19 10. The Department's examination of Glen Oaks and review of the documents provided by
20 Respondents revealed the following unlicensed activity:

21 a. A small number of escrow transactions involving Arizona property were handled
22 by Glen Oaks during 2004 through 2007;

23 b. The number of escrow transactions handled by Glen Oaks involving Arizona
24 property increased significantly in 2008; specifically:

25 i. Glen Oaks opened 599 escrow transactions during 2008, representing
26 approximately 20 percent of the total escrow transactions it opened that year;

- ii. Glen Oaks closed 448 escrow transactions during 2008, representing approximately 20 percent of the total escrow transactions it closed that year;
- iii. Glen Oaks collected \$633,737.75 in escrow fees during 2008, representing approximately 16 percent of the total escrow fees it collected that year; and
- iv. Documents created by Glen Oaks included conveyance deeds and affidavits of property value;

11. Further examination of the documents prepared by Glen Oaks also revealed that:

- a. Conveyance deeds were not prepared in accordance with Arizona law; and
- b. The potential losses to Arizona consumers for incorrectly created "title" is significant.

12. These Findings of Fact shall also serve as Conclusions of Law.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. § 6-801, *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in the escrow agent business and with the enforcement of statutes, rules, and regulations relating to escrow agents.

2. The conduct of Glen Oaks and Mr. Akerley as set forth above constitutes that of engaging in the escrow agent business or acting in the capacity of an escrow agent in Arizona without having first applied for and obtained an escrow agent license, in violation of A.R.S. § 6-813(A).

3. Neither Glen Oaks nor Mr. Akerley meet any of the exemptions to the licensing requirements set forth in A.R.S. § 6-811(A).

4. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

5. The violations of applicable laws, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the

1 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
2 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
3 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S.
4 § 6-132; (3) an order to pay restitution of any fees earned in violation of A.R.S. § 6-801, *et seq.*,
5 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (4) an order or any other remedy necessary or
6 proper for the enforcement of statutes and rules regulating escrow agents pursuant to A.R.S.
7 §§ 6-123 and 6-131.

8 ORDER

9 1. Glen Oaks and Mr. Akerley shall immediately stop the violations set forth in the
10 Findings of Fact and Conclusions of Law.

11 2. Glen Oaks and Mr. Akerley shall immediately stop all escrow agent activity in Arizona
12 until such time as Glen Oaks and Mr. Akerley have obtained an escrow agent license from the
13 Superintendent as prescribed by A.R.S. § 6-814.

14 3. Glen Oaks and Mr. Akerley shall immediately pay to the Department a civil money
15 penalty in the amount of **two hundred fifty thousand dollars (\$250,000.00)**. Glen Oaks and Mr.
16 Akerley are jointly and severally liable for payment of the civil money penalty.

17 4. Glen Oaks and Mr. Akerley shall pay to the Department an examination fee of sixty five
18 dollars (\$65.00) per examiner hour for review of the supplied documents.

19 5. Glen Oaks and Mr. Akerley shall furnish to the Department, and to the title insurance
20 company that issued the title policies for the particular transactions, recorded copies of all
21 conveyance deeds and affidavits of property value for each escrow transaction affecting Arizona
22 property and a copy of the corresponding Owner's Loan Policy(ies).


23 6. Glen Oaks and Mr. Akerley shall comply with all Arizona statutes and rules regulating
24 Arizona escrow agents (A.R.S. §§ 6-801 *et seq.*).

25 7. The provisions of this Order shall be binding upon Respondents, their employees,
26 agents, and other persons participating in the conduct of the affairs of Respondents.

1 8. This Order shall become effective upon service, and shall remain effective and
2 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
3 or set aside.

4 SO ORDERED this 26th day of October, 2009.

5 Thomas L. Woods
6 Acting Superintendent of Financial Institutions

7 By 
8 Robert D. Charlton
9 Assistant Superintendent of Financial Institutions

10 **CONSENT TO ENTRY OF ORDER**

11 1. Respondents acknowledge that they have been served with a copy of the foregoing
12 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
13 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

14 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the
15 foregoing Findings of Fact, Conclusions of Law, and Order.

16 3. Respondents state that no promise of any kind or nature has been made to induce them
17 to consent to the entry of this Order, and that they have done so voluntarily.

18 4. Respondents agree to cease from engaging in the violative conduct set forth above in
19 the Findings of Fact and Conclusions of Law.

20 5. Respondents agree to reimburse all escrow fees collected during 2008 to the parties
21 charged for the escrow fees.

22 6. Respondents agree to furnish the Department with copies of all checks issued in
23 connection with the reimbursement of escrow fees.

24 7. Respondents agree to pay the Department an examination fee of sixty five dollars
25 (\$65.00) per examiner hour for the review of supplied documents.

26 8. Respondents agree to record corrective conveyance deeds and affidavits, at the expense

1 of Glen Oaks and Mr. Akerley, upon the determination by the Department that such recordings are
2 necessary.

3 9. Respondents agree to supply the affected parties with modifications to the title
4 insurance policies, to insure proper coverage from date of original transactions. Respondents further
5 agree that said modifications shall be at the expense of Glen Oaks and Mr. Akerley.

6 10. Respondents acknowledge that the acceptance of this Agreement by the Superintendent
7 is solely to settle this matter and does not preclude this Department, any other agency or officer of
8 this state or subdivision thereof from instituting other proceedings as may be appropriate now or in
9 the future.

10 11. Scott Akerley, on behalf of Glen Oaks Escrow, Inc. and himself, represents that he is
11 the President, and that, as such, has been authorized by Glen Oaks Escrow, Inc. to consent to the
12 entry of this Order on its behalf.

13 12. Respondents waive all rights to seek judicial review or otherwise to challenge or contest
14 the validity of this Cease and Desist Order.

15 DATED this _____ day of _____, 2009.

16
17 By _____
18 Scott Akerley, President
19 Glen Oaks Escrow, Inc.

20 ORIGINAL of the foregoing filed this 26th
day of October, 2009, in the office of:

21 Thomas L. Wood
22 Acting Superintendent of Financial Institutions
23 Arizona Department of Financial Institutions
24 ATTN: Susan Longo
25 2910 N. 44th Street, Suite 310
26 Phoenix, AZ 85018

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1 COPY mailed/delivered same date to:

2 Craig A. Raby
3 Assistant Attorney General
4 Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

5 Robert D. Charlton, Assistant Superintendent
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19 AND COPY MAILED SAME DATE by
20 Certified Mail, Return Receipt Requested, to:

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